

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

U.S. Bank National Association,

Civil File No. _____

Plaintiff,

v.

COMPLAINT

Bank of America, National Association,

Defendant.

U.S. Bank National Association for its Complaint against Bank of America, National Association (“BOA”) states:

PARTIES

1. U.S. Bank is a national banking association organized under the laws of the United States, with its headquarters in Cincinnati, Ohio, and its principal place of business in Minneapolis, Minnesota.

2. BOA is a national banking association organized under the laws of the United States, with its headquarters and principal place of business in Charlotte, North Carolina.

3. BOA is registered with the Minnesota Secretary of State as a Foreign Trust Association, and has significant contacts with Minnesota through its lending and banking operations, subjecting it to personal jurisdiction in Minnesota.

JURISDICTION

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds \$75,000, exclusive of interest and costs, and the action is between citizens of different states.

COUNT I
BREACH OF PRESENTMENT WARRANTIES

5. U.S. Bank customer Pet King Brands, Inc. issued check number 19956, dated April 3, 2019, in the amount of \$79,521.84, and with “Laclede, Inc.” as the named payee (the “Check”).

6. After Pet King Brands issued the Check, the named payee was fraudulently altered to “Alexander Angueira, P. LLC.”

7. BOA took the fraudulently altered Check, for deposit with the endorsement “Alexander Angueira”.

8. BOA presented the Check to U.S. Bank for payment.

9. U.S. Bank paid the Check to BOA in the amount of \$79,521.84.

10. U.S. Bank received an Affidavit of Unauthorized Paper Debit from Pet King Brands dated June 25, 2019.

11. Pet King Brands’ Affidavit of Unauthorized Paper Debit avers that the payee of the Check was altered without authorization, and that payment to the altered payee was not authorized.

12. U.S. Bank gave notice to BOA of the fraudulent alteration of the check, and requested that BOA reimburse U.S. Bank for the Check.

13. BOA has refused to tender reimbursement to U.S. Bank as requested.

14. Under Uniform Commercial Code 4-208, BOA warranted that the Check had not been altered when BOA presented the Check to U.S. Bank for payment.

15. By presenting the Check to U.S. Bank for payment with fraudulent alterations, BOA breached its presentment warranties.

16. BOA's breach of the presentment warranties has damaged U.S. Bank in the amount of \$79,521.84, plus finance charges and expenses.

COUNT II
UNJUST ENRICHMENT

17. When BOA transferred the Check to U.S. Bank, BOA received and accepted consideration to which it was not entitled.

18. Because BOA has retained consideration to which it is not entitled, it has been unjustly enriched in the amount of \$79,521.84.

WHEREFORE, U.S. Bank requests judgment against BOA as follows:

- (a) A money judgment for statutory damages in an amount not less than \$79,521.84, plus finance charges and expenses;
- (b) The cost, disbursements, and attorney's fees incurred in this action; and
- (c) All other relief that the Court deems just and equitable.

MESSERLI & KRAMER P.A.

Dated: April 2, 2020

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